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NUISANCES—TUBERCULOSIS SANATORIUM.—Defendant, a physician, was conducting a tuberculosis sanatorium in a residential district of the city, in close proximity to the homes of the plaintiffs. It was shown that the property value was reduced 25 per cent because of the prevailing fear of tuberculosis. Plaintiffs sought an injunction restraining the defendant from conducting the sanatorium in this residential district. *Held*, that the sanatorium was not a nuisance *per se*, but became such by reason of its location in a residential district, and the court granted the injunction. *Brink v. Shepard*, (1921) 215 Mich. 390.

The general rule seems to be that a hospital, whether for treatment of ordinary diseases or for the treatment of contagious and infectious ones, is not a nuisance *per se*, though it may become such by reason of the place of its location or because of the manner in which it is conducted. *Frazer v. Chicago*, 186 Ill. 480; *Haag v. Vanderburgh Co.*, 60 Ind. 511; *Cherry v. Williams*, 147 N. C. 452; *Barry v. Smith*, 191 Mass. 78. The establishment of the hospital need not place the occupants of adjacent buildings in actual danger of infection, but if they have a reasonable ground to fear such result and the reasonable enjoyment of their property would be materially interfered with, relief will be granted. *Stotler v. Rochelle*, 83 Kan. 86; *Baltimore v. Fairfield Imp. Co.*, 87 Md. 352; *Shepard v. Seattle*, 59 Wash. 363. As Chadwick, J., stated in the case of *Everett v. Paschall*, 61 Wash. 47, "The question is not whether the fear is founded in science, but whether it exists; not whether it is imaginary, but whether it is real, in that it affects the conduct and movement of men." In a densely populated community a hospital is undoubtedly a nuisance. *Deaconess Home v. Bontjes*, 207 Ill. 553; *Kestner v. Homeopathic Hospital*, 245 Pa. St. 326; *Cherry v. Williams*, *supra*. Thus, the decision of the court in the principal case seems to be sound and in accord with the general trend of authorities.

PATENT LAW—IDEA OF MEANS A PART OF INVENTION.—Originally bifocal eye lenses were built up by combining two lenses in one frame. The result was always an undesirable prismatic aberration at the division line between the upper and lower fields. There had been early patents of a "single crystal bi-focal," that is a single piece of glass with two fields ground upon it. Such a lens would largely eliminate the aberration. However, great difficulty was encountered in grinding such lenses, and the means of manufacture suggested in the earlier patents had not proved practicable. Plaintiff patented a single crystal bi-focal and suggested a workable means of manufacture. Defendant discovered an entirely different means of making substantially equivalent lenses, and proceeded to manufacture them. Suit for infringement. Defense, anticipation and non-infringement. *Held*, the prior patents did not anticipate the plaintiff's patent; defendant was an infringer. *One Piece Bi-focal Lens Co. v. Stead*, (1921) 274 Fed. 667.

In placing a patented article of manufacture on the market, there are two distinct steps involved, first, the conceiving of the possibility of making such a thing, and second, devising a way of making it. In order to decide that the plaintiff's patent was not anticipated, the court must have concluded

that plaintiff's means, or method, of manufacture was a necessary element in his invention. It must have considered the plaintiff's product a totally different article from those embodied in the earlier patents for the reason that it was produced in an entirely different way. There can be no question of the soundness of this conclusion. That the means of production is an integral part of the patented product is supported by those cases which hold that although someone else has previously suggested a useful and desirable commodity, yet the one who actually devised the means of giving physical existence to it is the original inventor. If the idea of the thing itself were the patentable idea then the person who subsequently devised the means of manufacture would have been anticipated, except as to his means. *Pitts v. Hall*, 2 Blatch. 229. See also WAITE, PATENT LAW, p. 124-5. Furthermore, it would seem that the subject matter of the patent in the principal case would, if it were not for the suggested means of production, be merely a statement of a desirable result, namely the prevention of the line of aberration by making the entire lens in one piece. That a mere result or function of a device is not patentable is well settled. *Risdon Iron and Locomotive Works v. Medart*, 158 U. S. 68. So the holding of the principal case in regard to anticipation is entirely satisfactory. But, as to infringement, it is clearly inconsistent. The defendant had used still a third means of manufacture, and should have been given as much credit for his new product as the plaintiff was given for his. It is true that the defendant's product was substantially the same as the plaintiff's in physical characteristics, but the fact that it was made by an entirely new means gives it novelty in the eyes of patent law. Either plaintiff's patent was for the product, regardless of the means of production,—in which case it was anticipated; or it was for the product as produced by his means,—in which case his patent did not cover the defendant's product as produced by different means.

SALES—POSSESSION NOT INDICIA OF TITLE.—P., the owner of an automobile, loaned it to Green and allowed the license to be renewed in Green's name. Green then sold the car to D., an innocent purchaser. In a replevin suit by P., *held*, that possession alone was not indicia of ownership; that, since it was not shown that D. knew that the license was issued in Green's name, there was no evidence that P. "permitted the property to be disposed of to an innocent purchaser under such circumstances as would lead an ordinarily prudent person to believe that the property was rightfully sold," and the court should not have submitted the question of estoppel to the jury. *Forrest v. Benson*, (Ark. 1921) 233 S. W. 916.

Chancellor Kent says that it is a maxim alike of the civil and common law that *nemo plus juris in alium transferre potest quam ipse habet*. 2 Kent's Com. 324. But although one cannot give what he does not have, still a buyer may acquire an effective title from a seller who had no title if the original owner is estopped to deny that the seller had title. If the owner of goods merely entrusts possession to another, he is not estopped to assert title against an innocent purchaser from the one in possession, for mere possession is not an indicium of ownership upon which the purchaser would